

AUG 17 2006

PATENT

Attorney Docket No. A-70385-2/DJB/VEJ
Attorney Matter No. 463678-00212
Application No. 10/775,829**REMARKS**

Reconsideration of this Application is respectfully requested. Upon entry of the foregoing amendments, claims 1-20 are pending in the application, with claims 1, 15, and 17 being the independent claims. Based on the above Amendment and the following Remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

Applicants thank the Examiner for the courtesy extended during the conversation of July 14, 2006. Applicant notes that the Examiner's Interview Summary accurately reflects the substance of the conversation. M.P.E.P. § 713.04. It is the understanding of the undersigned attorney that an agreement was reached with the Examiner and claims 1 and 15 will be allowable as amended to define the stem as separate from the closure cap subject to an updated search by the Examiner.

Rejections under 35 U.S.C. § 102***Claims 1-3 and 6***

The Examiner has rejected claims 1-3 and 6 under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,477,743 to Gross et al. ("Gross"). Gross, taken individually or combined, fails to teach or suggest the three-component enclosure of the present invention including a cap, spout, and a *separate* stem, as is called for by independent claim 1. During the interview of July 14, 2006, the Examiner indicated that amended claim 1 is likely allowable over Gross for at least the following reason.

As discussed during the interview, Gross does not disclose three-piece enclosure including a *separate* stem. Instead, Gross discloses a "closure system 20 [that] includes two basic components, [sic] (1) a body 30, [sic] and (2) a spout 40." See Gross, col. 5, lines 1-4. The enclosure includes a spout 40 and closure body 30 having a base 50 and a reciprocable conduit 70 joined by a flexible wall 80. See Gross, col. 2, lines 49-54 and FIGs. 3-4. The conduit is thus *integrally* formed with the body. See Gross, FIGs. 3-4.

AMENDMENT AND REPLY

6 of 8

4826-3306-368111

PATENT

Attorney Docket No. A-70385-2/DJB/VEJ
Attorney Matter No. 463678-00212
Application No. 10/775,829

Applicant submits that claims 2-3 and 6, which depend from claim 1, are allowable over the cited art for at least the same reasons noted above.

Claims 15-16, 18, and 20

The Examiner has rejected claims 15-16, 18, and 20 under 35 U.S.C. § 102 as being anticipated by Gross. Gross, taken individually or combined, fails to teach or suggest the three-component enclosure of the present invention including a cap, spout, and a *separate* stem, as is called for by independent claim 15. During the interview of July 14, 2006, the Examiner indicated that amended claim 15 is likely allowable over Gross for at least the reasons mentioned above.

Applicant submits that claims 16, 18, and 20, which depend from claim 15, are allowable over the cited art for at least the same reasons noted above.

Other Matters

Claims 5, 17, and 19 stand rejected based only on double-patenting. Applicants previously submitted a terminal disclaimer to overcome the double-patenting rejection.

Additionally, Applicants previously amended claim 17 into independent form and reserve the right to amend claims 5 and 19 into independent form. Applicants respectfully submit that previously presented claim 17 is allowable over the cited art of record for at least the reasons mentioned in the Response filed June 15, 2006.

CONCLUSION

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for

PATENT

Attorney Docket No. A-70385-2/DJB/VEJ
Attorney Matter No. 463678-00212
Application No. 10/775,829

any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided below.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extension of time or additional claims, and/or credit any overpayment to Deposit Account No. 50-2319 (Order No. 463678-00212; Docket No. A-70385-2/DJB/VEJ).


Prompt and favorable consideration of this Amendment and Response is respectfully requested.

Respectfully submitted,

DORSEY & WHITNEY LLP

Date: August 17, 2006

By:


Victor E. Johnson, Reg. No. 41,546

DORSEY & WHITNEY LLP
Suite 1000
555 California Street
San Francisco, California 94104-1513
Telephone: (415) 781-1989 Facsimile: (415) 398-3249